

Subject: Duty of Persons Directing Work	Date Approved: November 26, 2014
Approved by: Board of Directors	Date Revised:
Specific to: All Staff & Board of Directors	Next Review Date: September 2018

**PRINCIPLE:**

North Huron Family Health Team (NH FHT) will comply with all Federal and Provincially mandated workplace compliance regulations and legislation, and will ensure that our management staff members have been made aware of their obligations under the law. This policy (previously known as Bill C-45) is designed to outline the legal obligation of management staff to ensure the ongoing health and safety of all employees under their direction

**RESPONSIBILITIES UNDER BILL C-45:**

Employees:

- Responsibility to work in compliance with OH&S acts and regulations
- Responsibility to use personal protective equipment and clothing as directed by the employer
- Responsibility to report workplace hazards and dangers
- Responsibility to work in a manner as required by the employer and to use the prescribed safety equipment.

Employees have the following three basic rights:

1. Right to refuse unsafe work
2. Right to participate in the workplace health and safety activities as a worker health and safety representative
3. Right to know, or the right to be informed about, actual and potential dangers in the workplace

Manager/Supervisor:

- Must ensure that workers use prescribed protective equipment devices
- Must advise workers of potential and actual hazards
- Must take every reasonable precaution in the circumstances for the protection of workers.

Managers and supervisors act on behalf of the employer, and hence have the responsibility to meet the duties of the employer as specified in the Act.

NH FHT shall:

- Establish and maintain at least one health and safety representative
- Take every reasonable precaution to ensure the workplace is safe
- Train employees about any potential hazards and in how to safely use, handle, store and dispose of hazardous substances and how to handle emergencies
- Supply personal protective equipment and ensure workers know how to use the equipment safely and properly
- Immediately report all critical injuries to the government department responsible for OH&S
- Appoint a competent supervisor who sets the standards for performance, and who ensures safe working conditions are always observed.

**DEFINITION:**

Bill C-45 is federal legislation that amends the Canadian Criminal Code. Bill C-45 became law on March 31, 2004 and is now the new Section 217.1 in the Criminal Code which reads:

*"217.1 Every one who undertakes, or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task."*

The bill established new legal duties for workplace health and safety, and imposes serious penalties for violations that result in injuries or death. It also establishes rules for attributing criminal liability to organizations, including corporations, for the acts of their representatives and also creates a legal duty for all persons directing work to take "reasonable steps" to ensure the safety of workers and the public.

**Main Provisions of Section 217.1 in the Criminal Code:**

Section 217.1 in the Criminal Code:

- Creates rules for establishing criminal liability to organizations for the acts of their representatives.
- Establishes a legal duty for all persons "directing the work of others" to take reasonable steps to ensure the safety of workers and the public.
- Sets out the factors that courts must consider when sentencing an organization.
- Provides optional conditions of probation that a court may impose on an organization.

The most significant amendments to the Criminal Code are:

- Company representatives acting in any supervisory capacity whatsoever are now subject to a strict duty of care, and
- Corporations and other organizations are exposed to broader liability, not only for the actions or omissions of their "directing minds" (i.e., executives and management), but also for the actions or omissions of lower level employees, as well as agents and contractors.

These amendments are of great significance to employers and to individual supervisors who are now subject to meaningful criminal sanctions in the sphere of occupational health and safety.

Criminal Liability under Bill C-45:

Bill C-45 represents the federal government's effort to ensure that the weight of criminal sanctions can be more readily brought to bear in cases of serious health and safety violations.

In that regard, the amendments expand the personal liability of supervisors at all levels, by establishing a broad duty of care applicable to "everyone who undertakes, or has the authority, to direct how another person does work or performs a task".

Broadened Personal Liability:

Bill C-45 expands the direct application of criminal punishment to individuals within organizations. In that regard, it expressly prescribes the following duty of care:

*Everyone who undertakes, or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person arising from that work or task.*

This duty is broad enough to include officers, managers, and any other employee who functions in a supervisory capacity. Failure to meet the duty can form the basis of criminal negligence charges which can attract lengthy prison sentences, i.e., criminal negligence causing bodily harm is punishable by up to 10 years in prison, and the maximum penalty for criminal negligence causing death is life imprisonment.